

## **APPENDIX D: BUFFER ZONE REQUIREMENTS**

In compliance with and in addition to the requirements in the Consent Decree in United States v. Seaboard Foods LP, Defendant Seaboard Foods LP (“Seaboard”) shall comply with the requirements of this Appendix, for five years from the effective date of this Consent Decree, to ensure that vegetative buffer zones are established and maintained at each of the specifically named farms below.

### **I. VEGETATIVE BUFFER ZONES AT SPECIFIC SEABOARD FARMS**

1. Seaboard shall establish and maintain a 35-foot perennial vegetative buffer zone around each of the wet depressional areas<sup>1</sup> that is identified in the Agri-Waste Technologies (“AWT”) maps in Appendix E for the following farms:
  - a) Choate (Farms 65, 154, and 439); SE/4 Section 3 and E/2 Section 10-T19N-R8W in Kingfisher County, Oklahoma;
  - b) Stewart Nurseries (Farms 150 and 151); SW/4 Section 22-T19N-R8W in Kingfisher County, Oklahoma;
  - c) Payne/Stewart Finishers (Farms 420-423); Section 11-T18N-R8W in Kingfisher County, Oklahoma;
  - d) Bryan Sow and Norris (Farms 62 and 436); N/2 Section 18-T19N-R8W in Kingfisher County, Oklahoma;
  - e) Best Nurseries 1 & 2 (Farms 152 & 153); NE/4 Section 21-T19N-R8W in Kingfisher County, Oklahoma;
  - f) Watson Finisher (Farm 424); SE/4 Section 27-T19N-R8W in Kingfisher County, Oklahoma;
  - g) Grimes Finisher (Farm 425); NW/4 Section 2-T18N-R8W in Kingfisher County, Oklahoma and
  - h) Barr Finisher (Farm 435); NW/4 Section 17-T18N-R7W in Kingfisher County, Oklahoma.

### **II. GENERAL REQUIREMENTS FOR EACH VEGETATIVE BUFFER ZONE**

For each wet depressional area around which Seaboard is required to establish and maintain a thirty-five foot (35') vegetative buffer zone, Seaboard shall:

1. No later than 30 days after entry, replace all wooden stakes that were initially placed to mark the 35' buffer zones (during the March, 2005 inspection conducted by Carl Wills, hereinafter referred to as the “March 2005 field delineations”) at twenty-foot intervals with more permanent steel T-posts.
2. Unless 70 percent perennial vegetative cover relative to native background coverage is already established, utilize a no-till seeder to seed the area between the perimeter of the wet depressional area and the buffer stakes with a native grass mixture (designed for buffer strips around wet depressional areas) so as to establish and maintain perennial

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<sup>1</sup> Defendant Seaboard contends that the areas described in this Appendix are not jurisdictional wetlands. For purposes of this Consent Decree, EPA takes no position on whether the areas described below are jurisdictional wetlands under the Clean Water Act. Accordingly, this Appendix refers to such areas as “wet depressional areas.”

vegetative coverage of no less than 70 percent, relative to native background vegetative cover.

3. For each required buffer zone, Seaboard shall measure the percent coverage annually, using the Point Intercept Method, beginning one year after entry of the Consent Decree, and report results to EPA. If the required 70 percent perennial vegetative coverage has not been established, Seaboard shall undertake additional reasonable steps to establish cover (including but not limited to watering, tending and re-seeding), and conduct a follow-up coverage measurement at least annually, and report results to EPA.
4. Seaboard shall take reasonable steps to establish the required coverage by April 30, 2007, and to maintain such coverage thereafter, for five years from the effective date of this Decree or until the surrounding areas permanently cease receiving effluent or other material by any form of land application, whichever is sooner.
5. Seaboard shall not land apply effluent on the designated wet depressional areas or on the buffer strips at any of the above-named farms or, with respect to the Brown Sow facility (Farm 61) (SE/4 of Section 12-T19N-R9W in Kingfisher County, Oklahoma), on the wet depressional areas indicated on the AWT map of this facility included in Appendix E.

### **III. USE OF IRRIGATION & OTHER IMPLEMENTS IN WET DEPRESSIONAL AREAS**

1. Seaboard shall not permit any irrigation pivot wheel or other irrigation implement or other heavy equipment to travel through the wet depressional areas depicted in the maps provided in Appendix E, unless:
  - (a) Such wet depressional area is surrounded by a 35' vegetative buffer zone, and
  - (b) For each wet depressional area at issue, Seaboard has:
    1. installed a permeable underlayment in the wet depressional area and in the area of the 35' buffer strip where the pivot wheels or other irrigation implement would track through the wet depressional area and buffer, and covered such underlayment with clean, large diameter rocks (large enough to allow the flow of water back and forth). Such underlayment shall be wide enough to support a rock pile approximately three feet wide (or wider if warranted by the irrigation implement). The rock depth shall be high enough to keep the pivot wheels or other irrigation implement out of the water in the wet depressional area; and
    2. verified that there are ball valves on the pivot drops that travel over the wet depressional areas and the 35' buffer strips around them so as to prevent application of effluent or other land application material upon the wet depressional area and its buffer zone.